Attorney Docket RSW920010199S1

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Notice of Appeal Transmittal

In re application of James C. Fletcher et al.

Serial Nbr:	10/047,811	Filed:	January 15, 2002
For:	Provisioning Aggregated Services in a Distributed Computing Environment		
Art Unit:	2143	Examiner:	Jeffrey C. Pwu

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing please find:
1) a **Notice of Appeal**, Form PTO/SB/31, in the above-identified Application (1 page, in duplicate);
2) a **Petition for Extension of Time**, Form PTO/SB/22 (1 page, in duplicate);
3) a **Pre-Appeal Brief Request for Review** (1 page); and
4) a **discussion paper** attached thereto (5 pages).

[X] The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. **09-0461**. A duplicate copy of this sheet is enclosed.

[X] Any additional fees required under 37 C.F.R. §1.16.

[X] Any additional fees required under 37 C.F.R. §1.17.

Date: November 30, 2005
Correspondence Address: Cust. No. 43168
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CERTIFICATE OF FACSIMILE TRANSMISSION
I hereby certify that the above-identified papers, a total of 12 pages (including a duplicate copy of this cover page), are being facsimile transmitted to the Patent and Trademark Office at (571) 273-8300 on November 30, 2005.

Marcia L. Doubet
(Name of person sending paper or fee)

Marcia L. Doubet
(Signature of person sending paper or fee)

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Art Unit: 2143

Examiner: Jeffrey C. Pwu

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request review of the Final Rejection in the above-identified Application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. Review is requested for the reasons stated on the attached sheets.

Respectfully submitted,

Marcia L. Doubet

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GROUNDS OF REJECTION PRESENTED FOR REVIEW

The ground of rejection presented for review is a rejection of Claims 1 - 5 and 7 - 20 under 35 U.S.C. §102(e) as being anticipated by U. S. Patent 6,839,680 to Liu et al. (hereinafter, "Liu").

ARGUMENT

Appellants respectfully submit that a *prima facie* case of anticipation under 35 U.S.C. §102 has not been made out as to their Claims 1 - 5 and 7 - 20. Section 706.02 of the MPEP, "Rejection on Prior Art", states in Section IV, "Distinction Between 35 U.S.C. 102 and 103", the requirements for establishing a *prima facie* case of anticipation under this statute, noting that "... for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly" (emphasis added). This requirement is also stated in MPEP §2131, "Anticipation -- Application of 35 U.S.C. 102(a), (b), and (e)", which states (in its final paragraph) "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference", quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), emphasis added. This final paragraph of MPEP §2131 also states "The elements must be arranged as required by the claim ...", quoting *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990), emphasis added.

Furthermore, Appellants are entitled to have all words of their claimed invention considered when determining patentability. See Section 2143.03 of the MPEP, "All Claim Limitations Must Be Taught or Suggested", referencing ***In re Wilson***, 165 USPQ 494, 496

(C.C.P.A. 1970), which stated "*All words* in a claim must be considered in judging the patentability of that claim against the prior art." (emphasis added).

Appellants respectfully submit that Liu fails to teach limitations of their independent Claims 1, 13, and 14 – and in particular, does not teach "each and every element" or "all words" of these limitations. The Office Action analysis therefore fails to make out a *prima facie* case of anticipation, in violation of the above-quoted MPEP §706.02, §2131, and §2143.03, as will now be demonstrated.

The text of record for Appellants' independent Claims 1, 13, and 14 is presented in Appellants' Amendment/Response submitted on May 24, 2005 (referred to hereinafter as "Appellants' response"). With regard to the first limitation of Appellants' independent Claims 1 and 14 and the third limitation of Appellants' independent Claim 13, Liu fails to teach "... a user who requests to access an aggregated service" (Claim 1, line 3, emphasis added). Appellants' independent claims further specify that this aggregated service "compris[es] an aggregation of a plurality of sub-services" (Claim 1, lines 5 - 6, emphasis added). The cited Abstract and text in col. 6, lines 39 - 56 of Liu pertain to a data aggregation function/service (i.e., a service for aggregating data), which is *different* from an aggregated service (i.e., a service "comprising an aggregation of a plurality of sub-services"; Claim 1, lines 5 - 6, emphasis added).

Liu's data aggregation function/service aggregates (*i.e.*, gathers and summarizes) data records referred to therein as "web event records" (col. 3, lines 5 and 50) or a user's "web

activity data" (Abstract, lines 4 - 5; 21 - 22; and 26 - 27). These data records identify (1) the user, (2) the web content viewed by the user, and (3) how long the user viewed the content (col. 2, line 62 - col. 3, line 2). This "data of a user's specific interaction" is then stored in a web event record (col. 3, lines 4 - 5), which is subsequently processed to determine categories of the user's interest (col. 3, lines 14 - 21; 28 - 29; and 32 - 51). See also col. 4, line 14 - col. 6, line 10, where Liu's data aggregation is discussed. In particular, see:

- col. 4, lines 19 - 20, stating that Liu abstracts "a summary of the user's interests" from the "details of the user's activities";
- col. 4, lines 27 - 29, referring to web activity aggregation as the process by which "summaries of a web visitor's activities" are created;
- col. 4, lines 29 - 32 explains that this web activity aggregation process "takes the previous history of a visitor's activities and integrates this with data collected from new visits" (emphasis added);
- col. 4, lines 36 - 41, discussing 3 dimensions by which web visitor's data is aggregated, thus providing "sophisticated, statistical-based aggregation". That is, the data is summarized according to (1) who the user is; (2) what content the user viewed; and (3) the time of viewing the data;
- col. 4, lines 55 - 57 and 62 - 64, explaining that the web event records (i.e., data) are "aggregated" or "combined" to create a set of per-user results for a particular web site;
- col. 5, lines 18 - 26, explaining that a particular user's information (i.e., data) may be aggregated over various periods of time, such as a week or more, where this

aggregation comprises "combin[ing the data] by an aggregation function" such as the mean of the data.

As demonstrated by these references, Liu's data aggregation function/service (i.e., a function/service with which data is aggregated or summarized) is not an "aggregated" service that is "compris[ed] ... of a plurality of sub-services".

With regard to the second limitation of Appellants' independent Claims 1 and 14 and the fourth limitation of Appellants' independent Claim 13, the Office Action dated August 11, 2005 (hereinafter, "the Office Action") merely cites reference number **724** of **Fig. 10** in Liu (Office Action, p. 3, lines 8 - 9), which shows Liu's data aggregator (see col. 7, line 39) and states that this "includ[es] an aggregation of [a] plurality of sub-services". However, this provides no discussion nor any suggestion of the following terms from Appellants' independent claims:

- "a network-accessible registry" (Claim 1, line 4);
- "a service description document" (Claim 1, line 4);
- "locating, in a network-accessible registry, a service description document" (Claim 1, line 4, emphasis added);
- "a provisioning interface for [an] aggregated service" (Claim 1, lines 4 - 5);
- "a service description document specifying a provisioning interface" (Claim 1, lines 4 - 5, emphasis added);
- "identity functions of the aggregated service" (Claim 1, line 7);
- a provisioning interface "specifying how to invoke identity functions of the

aggregated service" (Claim 1, lines 6 - 7, emphasis added).

With regard to the third limitation of Appellants' independent Claims 1 and 14 and the fifth limitation of Appellants' independent Claim 13, Appellants find no teaching or suggestion in Liu of:

- "analyzing [user] credentials by invoking ... identity functions, according to the specification thereof in the provisioning interface" (Claim 1, lines 8 - 9, emphasis added).

As stated by the Federal Circuit in ***In re Oetiker***, 24 USPQ 2d 1443, 1444 (Fed. Cir. 1992),

> If the examination at the initial stage does not produce a prima facie case of unpatentability, then without more the applicant is entitled to grant of the patent.

As has been demonstrated, Liu fails to teach a number of the elements specified in Appellants' independent Claims 1, 13, and 14, thus violating the above-noted requirements for citing a reference that teaches "each and every element" and "all words" of the claimed invention. Accordingly, the Office Action fails to make out a *prima facie* case of anticipation, and Appellants respectfully submit that, without more, their independent Claims 1, 13, and 14 are patentable over Liu. Dependent Claims 2 - 5, 7 - 12, and 15 - 20 are therefore deemed patentable over the reference as well.